



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

May 23, 2001

OFFICE OF
WATER

Mary E. Jevne
723 1/2 Blair Way
Wahkon, MN 56386

Dear Ms. Jevne:

This letter is in response to your correspondence to Administrator Whitman dated February 14, 2001, regarding the continued existence of the Mille Lacs Reservation. Your letter indicates that you believe that the Mille Lacs Reservation was disestablished by operation of the Nelson Act, ch. 24, 25 Stat. 642 (1889). This question is addressed in the attached opinion of the Department of the Interior. That opinion, in the form of a February 28, 1991, letter to Mr. Earl J. Berlow, states that the Mille Lacs Reservation has not been diminished and that its exterior boundaries remain those established by the Treaty of February 22, 1855, 10 Stat. 1165. The Department of the Interior recently reaffirmed its opinion in the attached November 5, 1998, letter to Dr. R. D. Corneau.

Your letter also refers to United States v. Mille Lac Band of Chippewa Indians, 229 U.S. 498 (1913), for the proposition that the Supreme Court ruled that the Nelson Act disestablished the Mille Lacs Reservation. That case, however, concerned whether the United States was liable for damages relating to the conveyance of lands within the Mille Lacs Reservation pursuant to the general land laws. That case did not address the precise issue of whether the Nelson Act disestablished the boundaries of the Mille Lacs Reservation.

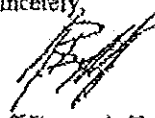
The Supreme Court's decision in Cass County v. Leech Lake Band of Chippewa Indians, 534 U.S. 103 (1998), discusses the Nelson Act. Our Region 5 Office, in the attached October 22, 1998, letter to Dr. Corneau, explained that the Court's decision did not find that the Nelson Act diminished the Leech Lake Reservation or other Indian Reservations in Minnesota. I also note that the Department of the Interior reached the same conclusion on this matter and conveyed that opinion in their November 5, 1998, letter to Dr. Corneau. The Supreme Court's decision in Cass County v. Leech Lake Band of Chippewa Indians, 534 U.S. 103 (1998), did not disturb the Eighth Circuit's ruling that the Leech Lake Reservation "has never been disestablished or diminished" even though the Leech Lake Reservation, like other Reservations in Minnesota, was allotted pursuant to the Nelson Act. See Leech Lake Band of Chippewa Indians v. Cass County, 108 F.3d 820, 822 (8th Cir. 1997).

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I understand that the concerns you raise specific to the draft NPDES permit and associated environmental assessment regarding the proposed Garrison area sewage treatment plant have been addressed in a telephone call you had from John Collett in follow up to your February letter. In addition, I have been told that you will receive a copy of the response to comments once they are released.

If you have any further questions regarding this letter, please do not hesitate to contact Anthony Hanson in my Office at (202) 260-8106.

Sincerely,



Jeff Besoughoff, Acting Director
American Indian Environmental Office

Attachments

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